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The Mandan City Commission met in regular session at 5:30 p.m. on April 3, 2012 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Helbling, Tibke, Rohr, Frank, and Jackson (arrived at 5:31 p.m.). Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta.

MINUTES: *Consider approval of the minutes for March 15, 2012 special meeting and March 20, 2012, regular meeting.* Commissioner Tibke moved to approve the minutes of the March 15, 2012 Special Meeting and March 20, 2012, Regular Meeting minutes. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *Public Hearing to consider the vacation of a 20’ Storm Sewer Easement in Borden Harbor 1<sup>st</sup> Addition.* Engineering Project Manager Bechtel reviewed with the Board a request to vacate a storm sewer easement submitted by John Keller. If Keller acquires the property he plans to build across the storm sewer easement if approved by the City. Bechtel stated there is no need for the storm sewer easement as it has accomplished what it was supposed to do. Bechtel stated that his office approves of vacating the storm sewer easement.

Mayor Helbling stated that this is a public hearing and invited comments from the public. A second request was made for any comments. Hearing none, this portion of the public hearing was closed.

Commissioner Rohr motioned to approve the vacation of a 20’ Storm Sewer Easement in Borden Harbor 1<sup>st</sup> Addition. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed

2. *Public Hearing to consider the vacation of a 20’ Overhead Power Line Easement in Sunset Commercial Park 1<sup>st</sup>.* Engineering Project Manager Bechtel reviewed with the Board a request to vacate a 20’ Overhead Power Line easement in Sunset Commercial Park submitted by Frank Kilzer, St. Alexius Medical Center. MDU has been contacted and agrees to vacate the easement.

Mayor Helbling stated that this is a public hearing and invited comments from the public. Frank Kilzer, St. Alexius Medical Center, came forward and stated that the property was acquired several years ago by St. Alexius with plans to build a clinic on the property. He stated that he has been working through the issues with MDU and he believes all the concerns have been addressed. MDU is agreeable to eliminating the easement.

Mayor Helbling again invited any additional comments from the public. Hearing none, this portion of the public hearing was closed.

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Commissioner Tibke moved to approve the request for the vacation of a 20' Overhead Power Line Easement in Sunset Commercial Park 1<sup>st</sup>. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

BIDS:

CONSENT AGENDA:

1. *Consider for approval out-of-state travel for Police Department from Apr. 23-24, 2012.* The Board approved of the out-of-state travel for Police Department from Apr. 23-24, 2012.
2. *Consider proclamation designating May, 2012 as National Military Appreciation Month in the City of Mandan.* The Board approved of the proclamation designating May, 2012 as National Military Appreciation Month in the City of Mandan.
3. *Consider for approval the final plat of Lakewood 6<sup>th</sup> Addition.* The Board approved of the final plat of Lakewood 6<sup>th</sup> Addition.
4. *Consider recommendation from the Pension Committee related to fund changes within the plan.* The Board approved of the recommendation from the Pension Committee related to fund changes within the plan.
5. *Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Meadow Ridge 1st Addition.* The Board approved of the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Meadow Ridge 1st Addition.
6. *Consider approval of the following site authorizations: (i) American Foundation for Wildlife at The Lakewood Bar & Grill from July 1, 2012 through June 30, 2013; (ii) American Foundation for Wildlife at the Last Call Bar from July 1, 2012 through June 30, 2013.* The Board approved of the site authorizations as listed.
7. *Consider the approval of the feasibility report for, approve the plans and specifications for, and authorize the call for bids on Street Improvement District No. 168, Project No. 2011-09(Heart Ridge 1st Addition).* The Board approved of the feasibility report for, approved the plans and specifications for, and authorized the call for bids on Street Improvement District No. 168, Project No. 2011-09(Heart Ridge 1st Addition).
8. *Consider the approval of the feasibility report for, approve the plans and specifications for, and authorize the call for bids on Street Improvement District No. 167, Project No. 2012-04 (Keidels South Heart Terrace, Phase 2).* The Board approved of the feasibility report for, approved the plans and specifications for, and authorized the call for bids on Street Improvement District No. 167, Project No. 2012-04 (Keidels South Heart Terrace, Phase 2).
9. *Consider approval of Games of Chance for World Race Mission Trip for Stephanie Bauer for May 1, 2012, through June 30, 2012.* The Board approved of the Games of Chance for World Race Mission Trip for Stephanie Bauer for May 1, 2012, through June 30, 2012.

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Commissioner Jackson moved to approve the Consent Agenda as presented.

Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

OLD BUSINESS:

NEW BUSINESS:

1. *Special award presentation by Mandan Lions.* On behalf of the Mandan Lions Club and Lions Club International - Jeff Erickson, President; Art Owens, Secretary-Treasurer; Jack Stuart, incoming President for 2012-2013; and Bryan Giese presented Mayor Tim Helbling with the Melvin Jones Fellowship Award. Melvin Jones was the founder of Lions Club International. The Mandan Lions Club has been presented with a \$1,000 donation on behalf of Mayor Timothy Helbling. This contribution allows the Lions Club to expand their program. The Melvin Jones Fellowship Award presented to Mayor Helbling acknowledges his many years of dedicated service to the City Commission, his service as Mayor, City Commissioner and Park Board Member of the City and for his contributions to the Mandan community. In particular the award recognizes Mayor Helbling's leadership during the Flood of 2011.

2. *Consider the creation of Street Improvement District No. 169 Project # 2012-06. (Lincoln Ridge 5th Addition).* Engineering Project Manager Bechtel reviewed a request from Steve Thilmony to consider the creation of Street Improvement District No. 169 at Lincoln Ridge Addition. The roads to be paved would be 25<sup>th</sup> Street, West View Place and South View Place Southeast. The developer will be required to install water and sewer utilities to service the area and will be required to pay 100% of the costs via 3-way agreement. Twelve lots will be opened for development. The engineer's estimate is \$214,958.58.

Mayor Helbling commented that there has been much discussion on Measure 2 since it came out with regard to special assessments and it will be voted on in June 2012. He asked Bechtel what developers have been told regarding special assessments. Bechtel replied that the advice being given to engineers and developers is that the City has taken a stance between doing no specials for street projects and a policy to possibly do something other. Most of the indications to the engineers were don't expect the City to assess any of those costs due to street or to their project at this time. Mayor Helbling stated that last week a statement came out that special assessments would not be affected by Measure 2. Based on that, the commission will need to decide tonight as the engineering department has been telling developers not to expect the city to approve special assessment projects. He indicated there was one exception being the Wachter property by Ft. Lincoln School. A commission decision is needed as to where we want to go with the developers. A special meeting was held on March 27, 2012, and there was no decision made on special assessments. Mayor Helbling reviewed some of the discussions that were held and he deferred to Engineering Project Manager Bechtel to provide a summary of the discussions. He mentioned that policies are currently being worked on to accommodate the revisions. Mayor Helbling inquired if the policies would need to be implemented

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tonight based on several developers wanting to know which way the City would like to go. Continue as in the past or look at new rules that may be developed?

Commissioner Rohr stated that he believes the City should look at a partnership with the developers and would like to approach it by looking at limitations on some things. But to do it in a way that it is in a partnership with the developers.

Commissioner Tibke referenced documents that were just received, that were previously discussed, regarding the policies for the special assessments. She stated that at the retreat there was discussion regarding changes to be made. She suggested that if there will be any changes made, they all be made at the same time and to put it forward at the next building season in order to allow for planning time for the developers.

Commissioner Frank concurred with the dialogue alluding to allowing the developers ample time to review and understand the concerns of the City when it comes to special assessments. She stated she would be open to further review of the way this is handled in Bismarck in order to allow for consistency among the developers and the communities. She suggested allowing time to digest the materials received tonight and then to have further discussions with the parties who would be impacted.

Commissioner Jackson agreed with the foregoing comments. In addition, he suggested putting in a cap on “per lot” as to what can be special assessed per lot. Recognizing there are other ways to set a cap, he stated that that way of setting it seems most logical under the circumstances.

Mayor Helbling summarized that the consensus of the Commission for now is to continue on the same path as in the past. To continue working with the developers to come up with a mutual agreement for future and to select a future date for changes.

Engineering Project Manager Bechtel commented that he agreed with the process to allow comments from the developers and others from the community who would have an interest in this matter. He stated that he would suggest that January 1, 2013 be a tentative date for any new policies to go into effect, and that prior to that time, a proper recommendation would be brought before this Board for consideration.

Commissioner Frank encouraged anyone attending this meeting or viewing from another location that if they have particular interest in this matter and/or on the special assessments matter, that they contact their city commissioners to voice concerns. Mayor Helbling commented that with the recommendations received last week on Measure 2 on how it will affect the City along with conversations on this matter from last year, the Commission has decided that this will need some type of action.

Mayor Helbling indicated that in regard to the (Thilmony) matter before the Board tonight, (and for requests from subsequent developers), questions similar to the following will be asked:

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Q. No. (1) Have you ever had any property that you've requested to be special assessed by the City of Mandan come back for back taxes?

Thilmony: Not property special assessed...not requested for special assessment.

Q. No. (2) Are you a board member of Construction Financial Services or have any business dealings with them?

Thilmony: I used to have a business relationship with them but I sold out 100% of it last year (2011).

Mayor Helbling clarified that these questions were asked because there was a parcel of land in the northwest part of Mandan that did come back for back taxes to the City.

Thilmony stated "I received a list of them today that I was supposedly behind on and I went to the Treasurer's Office and stated they were deeded over last year and that one was deeded over two years ago and they are still sending them to me."

Mayor Helbling mentioned that this information is being requested for recording purposes. "There is one piece of property where Construction Financial Services has let the property go back for back taxes". Thilmony indicated he wanted to know which piece of property that is because he owns property around them. Mayor Helbling provided Thilmony an opportunity to review the documents he received today. After review, Thilmony stated that he believes that it is the property on the corner by the lift station.

Commissioner Jackson asked Thilmony how many of the properties have already been sold as part of the development project. Thilmony replied that he provided 4 contracts to Engineering Project Manager Bechtel and that one of them was supposed to close on 4/2/12 and there are 4 additional lots that have been sold. He stated he requested his realtor come to the meeting to verify that they were told there would be no special assessments. Thilmony mentioned that he called everybody on the list, indicating that in the last week another three lots could have been sold. Out of 12 lots, 7 of them have been sold.

Commissioner Rohr motioned to approve the creation of Street Improvement District No. 169 Project # 2012-06. (Lincoln Ridge 5th Addition). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

Mayor Helbling stated there is another project in process, (the Keidel Addition), and requested Engineering Project Manager Bechtel provide an update on that project. Bechtel stated that at the last meeting the developer was looking at special assessing the costs of the street project to the benefiting lots. This Board approved to create a district but there was a caveat that there would be a decision on the specials at a later time, based on this policy. Bechtel stated that in regard to the discussion just held (on Thilmony's request) this developer is requesting to special assess the benefiting lots within the same fashion as Thilmony requested. Mayor Helbling stated that this matter cannot be acted

on because they (developers) are not in front of the Commission. The consensus tonight is that this matter will be treated similar to Mr. Thilmony's request that has just been addressed. Bechtel stated he will contact the developer and let them know it is the presumption that the City will be special assessing the costs to the lots.

Mayor Helbling stated that the City Engineer's office is directed to keep the assessed project process in place for the time being until the policy is changed. He recommended the Commission members review the documentation provided to everyone today, and to contact staff with any recommended changes. After Bechtel has received input he can bring it back to a future meeting for discussion. Bechtel was instructed to include the (developer) questions previously outlined as part of the process.

#### RESOLUTIONS & ORDINANCES:

1. *Consider second consideration and final passage of Ordinance No.1112 Zone Change for the vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Jackson moved to approve the second consideration and final passage of Ordinance No.1112 Zone Change for the vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.

Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

2. *Consider second consideration and final passage of Ordinance No.1113 Zone Change for Lakewood 6<sup>th</sup> Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Jackson moved to approve the second consideration and final passage of Ordinance No.1113 Zone Change for Lakewood 6<sup>th</sup> Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

3. *First consideration of Ordinance No. 1114 – An ordinance to amend and re-enact Section 12-01-04(1) of the Mandan Code of Ordinances relating to location.* City Attorney Brown stated that this matter has been discussed at previous meetings. Ordinance No. 1114 amends the location of licenses to prohibit a Class A which is the general on or off sale license or Class D that is off sale and that must be 300 feet away from a school, library, hospital, college or university building used for academic purposes unless the entity affected by the above limitation consents to the issuance of the license.

Commissioner Jackson moved to approve the first consideration of Ordinance No. 1114 – An ordinance to amend and re-enact Section 12-01-04(1) of the Mandan Code of Ordinances relating to location. Commissioner Tibke seconded the motion. Roll call

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vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

4. *First consideration of Ordinance No. 1115 – An ordinance to create and enact Section 12-02-07(7) of the Mandan Code of Ordinances relating to drive-up window sales.* City Attorney Brown stated that this is a new section relating to drive-up window sales. There is no current ordinance related to this. Chief Bullinger has indicated that he has had discussions with Minot and they indicated there have not been any problems with drive-up window sales.

Commissioner Jackson moved to approve the First consideration of Ordinance No. 1115 – An ordinance to create and enact Section 12-02-07(7) of the Mandan Code of Ordinances relating to drive-up window sales. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

5. *First consideration of Ordinance No. 1116 – An ordinance to amend and re-enact Section 12-01-02 of the Mandan Code of Ordinances relating to application of chapter.* City Attorney Brown stated that this is a new section to this ordinance outlining that the license granted by the City is a privilege to engage in the activity. That the license does not constitute a property right or property which the license holder can sell. Also, it prohibits the license issued by the city from being mortgaged, or assessed, or taken for any debt, judgment, etc. The license will have to be renewed annually.

Commissioner Tibke moved to approve the First consideration of Ordinance No. 1116 – An ordinance to amend and re-enact Section 12-01-02 of the Mandan Code of Ordinances relating to application of chapter. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

6. *First consideration of Ordinance No. 1117 – An ordinance to create and enact Section 12-02-05.1 of the Mandan Code of Ordinances relating to certification of food sales.* City Attorney Brown stated that the current Class C license permits the license holder to operate a restaurant and serve alcoholic beverages. It requires that the food sales equals or exceeds the sale of alcoholic beverages and there was no way of enforcing that requirement. He explained that this revision will require the license holder of the restaurant to file certification of records by a certified public accountant or the license holder to request a certified copy of their sales tax return be sent to the city. The purpose of the revision is that the bar should not be running a restaurant as a sideline business.

Commissioner Frank moved to approve the First consideration of Ordinance No. 1117 – An ordinance to create and enact Section 12-02-05.1 of the Mandan Code of Ordinances relating to certification of food sales. Commissioner Rohr seconded the motion. Roll

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call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

7. *First consideration of Ordinance No. 1118 – An ordinance to amend and re-enact Section 12-02-08-(1), (2) and (3) of the Mandan Code of Ordinances relating to transfers of licenses limited.* City Attorney Brown stated that this provision states that not more than two licenses of each classification shall be issued to any applicant, and each license shall be valid only for the specific premises licensed. It also addresses license restrictions of partnerships, stock of corporations, corporations, connection with any two or more licensed liquor establishments.

Commissioner Rohr moved to approve the First consideration of Ordinance No. 1118 – An ordinance to amend and re-enact Section 12-02-08-(1) (2) and (3) of the Mandan Code of Ordinances relating to transfers of licenses limited. Commissioner Tibke seconded the motion.

Commissioner Jackson stated that in Subdivision (3) at Line 8: ... nor shall any retail license to sell alcoholic beverages be issued or granted to any member of the immediate family. What is immediate family? He would suggest that immediate family be defined within the City Code of definitions as to what constitutes immediate family. City Attorney Brown will research the North Dakota Century Code for a definition of “immediate family” and circulate that information prior to the next meeting.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

8. *First consideration of Ordinance No. 1119 – An ordinance to amend and re-enact Section 12-02-06 of the Mandan Code of Ordinances relating to license fee.* City Attorney Brown stated this ordinance has to do with an issuance fee to a new licensee. This amendment gives flexibility if there is competition for a license - how is the City going to handle maximizing it for the benefit of the City. Commissioner Jackson clarified License Fee in Paragraph 3: What we are really saying is in its discretion to include: “as to the amount of the fee”. Just to make it clear that the City has the discretion as to the amount of the fee but not as to the issuance of the fee. Commissioner Jackson stated that this clarifies the bidding process and this Commission may want to do a sealed bidding process but future commissions may want to do something different, realizing that ordinances can be changed at any time and in reality this may provide more clarification for those who are involved in this process. Commissioner Frank commented that prior to inclusion it does say that “in an amount determined by the board,” it precedes that rather than follows it. City Attorney Brown recommended eliminating the comma after “board” which will clear up the discrepancy.

Commissioner Jackson moved to approve the First consideration of Ordinance No. 1119 – An ordinance to amend and re-enact Section 12-02-06 of the Mandan Code of Ordinances relating to license fee with the addition of a strikethrough after the comma, in

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the third line, after board. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

9. *First consideration of Ordinance No. 1120 – An ordinance to amend and re-enact Section 12-02-04 and to repeal Section 12-02-05 of the Mandan Code of Ordinances relating to alcoholic beverage licenses.* City Attorney Brown commented that currently with these two ordinances (12-02-04) relating to beer and (12-02-05) relating to alcoholic beverages, the goal is to have one ordinance that deals with alcoholic licenses. Currently there are six classes of licenses and this is being amended to have seven classes. He summarized as follows: Class A does not change. Class B does not change except for the elimination of the beer/liquor licenses; they will be called alcoholic beverages. Class D will be for exclusive off-sale alcoholic beverages and Class D-1 will be exclusive retail off-sale beer and wine (convenience store). The new language includes limiting the Class A license to “17” in number (which is the current number) until such time as the number of living units (as determined by the office of Building Inspection) increases by 500 living units within the City of Mandan, effective June 30, 2012. Attorney Brown stated there are two problems with the current ordinance. First, it states an increase of 5,000 in population, which is a high number; and secondly, the census is only performed every ten years. In the revised version, commencing on June 30, 2012 and every year thereafter, a determination would be made if criteria exists to issue another liquor license. The current Class D has two and this change would increase it to three. The number of Class D-1 exclusive retail and off-sale beer and wine licenses is five and this change would increase it to seven. There will be a total of three (3) new licenses permitted by this amendment that will take effect July 1, 2012 which is the current license renewal period.

Commissioner Frank had a question on page 3 concerning the new language which suggested wherein a Class A license would be increased at 500 living units. Would this only pertain to Class A and not to the Class D-1 and Class D-2 licenses? City Attorney Brown indicated that is the intention of the revision. She inquired if there would be a new license opened up every time the number hit “500 living units”? Mayor Helbling commented that he recalled that there would be one more of each license opened at that time. Attorney Brown clarified that he can re-write the ordinance to state that “500” living units enables the ability to increase one (1) more of every Class, A, D, and D-1. Commissioner Frank stated that she would like to see two (2) licenses opened for Class D-1.

Commissioner Jackson stated that he is in favor of opening it up as unrestricted and then charging a high fee like the City of Grand Forks has in place.

Commissioner Frank motioned to approve the First consideration of Ordinance No. 1120 – An ordinance to amend and re-enact Section 12-02-04 and to repeal Section 12-02-05 of the Mandan Code of Ordinances relating to alcoholic beverage licenses including the fact that the number of licenses opening based on the 500 living units includes Class A, Class D and Class D-1 at 500 living units, the commission would have the option to open

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one (1) Class A, one (1) Class D and two (2) Class D-1 licenses. Commissioner Tibke seconded the motion.

Commissioner Jackson commented that under Class A license and staying within the “spirit” of compromise, he thought restrictions were being put on that as far as square footage as to what could be on sale and what could be off sale. He stated it was pointed out to him that there was a dollar amount involved in Class A license, as far as on sale and off sale, in other words, that it was supposed to be split 50/50 or something. City Attorney Brown stated it is not in the current ordinance and he has no recollection of that. Mayor Helbling commented that he recalls that it was going to be limited to some extent. Changes can be brought back to the second reading. Attorney Brown stated that in the ordinances he has reviewed – Bismarck, Fargo, Grand Forks, it was not in there. He was not clear as to what purpose it would serve. Mayor Helbling stated that the Commission will have the opportunity to instruct the way in which the license will be used if needed.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

#### OTHER BUSINESS:

1. Plug Removal: Mayor Helbling requested Administrator Neubauer provide an update as to the plug removal, an overview of the contracts, and the timeframe as to when people can expect to be back on the river. Administrator Neubauer stated that load restrictions are currently in effect. Under normal conditions the restrictions are removed the latter part of April/early May. At that time the Notice to Proceed will be given to the contractors to start the removals. Discussion is in process with the contractors to coordinate the sand removal with the plug removal while trying to stay within a reasonable cost. River access could be the middle to latter part of June due to the different types of situations this year. Notification of the plug removal has been published in the Mandan Messenger which will be in the utility bills that will be going out towards the middle to end of April, along with the Mandan Messenger link on the City website at [www.cityofmandan.com](http://www.cityofmandan.com)

2. Mayor Helbling noted the following: (1) April 13, 2012, is the deadline for filing for public office. (2) The City Offices will be closed on Friday, April 6, 2012.

3. Leroy Volk came forward to voice concern about his street. Volk stated that he was before this Commission two years ago and no repair to his street has occurred and he would like something done about it. He also complained that the street has not been cleaned yet this year. Mayor Helbling requested Jeff Wright, Director of Public Works, to provide the upcoming street cleaning schedule. The schedule is also on the website. Volk also requested additional policing in his neighborhood. Mayor Helbling requested Chief Bullinger to review this matter.

4. Steve Markel, a resident who lives two miles west of Mandan came forward and requested assistance to enforce the variance on the equipment temporarily parked in his

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neighborhood. According to the variance there is only supposed to be 5 gravel trucks in that area. He asked who will do something about the situation. City Attorney Brown stated that he has not had any direction from the City Commission to do anything about it. He said that the court proceeding has been dismissed that dealt with the use of that property. Mayor Helbling mentioned that he was at the Zoning meeting last week and he suggested that the matter be tabled due to its complexity while attorneys reviewed the documentation. However, that was shot down. He stated that he feels that the City Commission does not have the authority to ask the City Attorney to enforce that because it has been occurring improperly for the last 25 years under the county's jurisdiction. If the zoning would have been changed and re-zoned under the City's jurisdiction, City staff would be requested to address the matter. Mayor Helbling stated that they are going to have to come in there and ask for some type of re-zoning. Then he would recommend that they work with City staff to get the proper zoning for that property, put whatever restrictions on it, and then the City can enforce it. Helbling recommended that this be placed before the Planning and Zoning Committee and that a request be presented that they put restrictions on it and then the City could handle it.

City Attorney Brown commented that if he started a legal proceeding requesting them to compel by the agreement that was entered into back in 1978, he would be met by the defense in charge saying that the county let them do this. It would be a dead issue. Attorney Brown stated that what Mayor Helbling outlined has merit. By having the Planning and Zoning create a zoning restriction, the City then would try to enforce it. Unfortunately that may involve permitting some uses going on, including on that parcel. In addition, right now the Planning and Zoning has denied the application. Attorney Brown said that the City is stuck with what the County did not do. Mayor Helbling stated that another problem that has occurred is that the county has been taxing that property as commercial property for many years. Not as agricultural and not as residential, this makes it more difficult for the City to amend it.

There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the meeting at 6:56 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

/s/ James Neubauer

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James Neubauer,  
City Administrator

/s/ Timothy A. Helbling

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Timothy A. Helbling,  
President, Board of City  
Commissioners